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Attorneys for Defendant Ernst & Young LLP

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STEPHEN MORRIS and KELLY McDANIEL, on behalf of themselves and all others similarly situated,

**Plaintiffs,**

1

ERNST & YOUNG LLP, and  
ERNST & YOUNG U.S., LLP,

## Defendants.

Case No. 12-CV-04964 RMW (HRL)  
[Assigned for all purposes to Judge  
Ronald M. Whyte]

**DECLARATION OF INGRID  
MCGUIRE IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS, OR IN THE  
ALTERNATIVE, STAY  
PROCEEDINGS AND COMPEL  
ARBITRATION**

Date: February 15, 2013  
Time: 9:00 a.m.  
Dept.: 6

## **DECLARATION OF INGRID MCGUIRE**

I, Ingrid McGuire, hereby declare:

1. I am over eighteen years of age and have personal knowledge of the facts set forth herein and would testify competently to them under oath if called as a witness. I submit this declaration in support of Ernst & Young LLP's opposition to plaintiff Sarah Fernandez's motion to add a new representative.

2. I am the Director of List Management, Distribution and SCORE for defendant, Ernst & Young LLP, and have worked for defendant for over 21 years.

3. The SCORE process is Ernst & Young's Standard Communications Organization and Retrieval process. I am responsible for managing Ernst & Young's global list management system and overseeing the distribution of firm-wide communications.

4. Due to administrative expenses and the ease of e-mail communication, Ernst & Young distributes personnel documents or policies, such as the Common Ground Dispute Resolution Program (the “Program”), via e-mail to its U.S. personnel.

5. In addition, from approximately December 1999 to December 2009, Ernst & Young sent important firm announcements and policies through a daily e-mail bulletin called the Daily Connection to all U.S. personnel.

6. Ernst & Young implemented the Program in July 2002. The Program has been available in its entirety in Ernst & Young's employee manual, which it previously referred to as the "Firmwide Organization and Administration Manual" ("FOAM"), but now calls "Employee Handbook." Under both titles for many years, Ernst & Young has made this manual accessible electronically to all employees at any time. Thus, Mr. Morris was able to review the Program in its entirety at any time from the beginning of his employment in January 2005 through the end of his employment in February 2007.

7. On March 23, 2006, Ernst & Young distributed to its U.S. personnel, including Mr. Morris, a Daily Connection announcing revisions to the Program. A true

1 and correct copy of the portion of the March 23, 2006 Daily Connection regarding the  
2 Program is attached as **Exhibit A**.

3 8. The story in the March 23, 2006 Daily Connection provided Mr. Morris  
4 with a synopsis of the changes to the Program and attached the revised Program in its  
5 entirety.

6 9. In addition, on April 25, 2006, Ernst & Young sent the revised Program  
7 (Score No. AA7521) via e-mail to approximately 25,000 U.S. personnel, including Mr.  
8 Morris. A true and correct copy of this April 25, 2006 e-mail is attached as **Exhibit B**.

9 10. Ernst & Young assigns each U.S. employee a Universal Personnel Number  
10 (UPN). This number is used as the unique identifier for a specific individual. This  
11 number, along with other information about the individual, such as name, business unit  
12 code, and rank code, is automatically fed from Ernst & Young's human resource  
13 management system to its global list management system. Because the global list  
14 management system also receives data from over 84 human resources systems  
15 worldwide, each country's respective personal identifier is combined with its country  
16 code to derive the Global Personnel Identifier (GPI). For example, a US UPN of  
17 1234567 is equivalent to a GPI of US1234567. Every e-mail distribution that Ernst &  
18 Young sends through the global management system has a control number that  
19 identifies the Ernst & Young e-mail recipients.

20 11. The control number for the April 25, 2006 e-mail attaching the revised  
21 Program was 1448407. A true and correct copy of excerpts of the distribution report is  
22 attached as **Exhibit C** (first page and the page referencing Mr. Morris).

23 12. Mr. Morris's name and his GPI (US2314079) are listed in the report, thus  
24 indicating that he was sent the April 25, 2006 e-mail.

25 13. On April 25, 2006, Ernst & Young distributed to its U.S. personnel,  
26 including Mr. Morris, a Daily Connection that again announced the revisions to the  
27 Program. A true and correct copy of the portion of the April 25, 2006 Daily Connection  
28 regarding the Program is attached as **Exhibit D**.

1       14. The story in the April 25, 2006 Daily Connection provided a synopsis of  
2 the changes to the Program, and provided a hyperlink through which employees could  
3 access the revised Program.

4       15. Each Daily Connection e-mail has a control number. The control numbers  
5 for the March 23, 2006 and April 25, 2006 Daily Connection were 1409202 and  
6 1448134, respectively. During this timeframe, Daily Connection e-mails were sent to  
7 list code 16446, which included U.S. personnel, contractors and affiliate personnel. A  
8 true and correct copy of the screen shot of the Daily Connection criteria in effect from  
9 June 23, 2005 through June 5, 2006 is attached as **Exhibit E**.

10 I declare under penalty of perjury under the laws of the United States that the  
11 foregoing is true and correct to the best of my knowledge.

12 Executed on this 20th day of December, 2011, at Jersey City, New Jersey.

Ingrid McGuire  
Ingrid McGuire

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over  
4 the age of 18 and not a party to the within action; my business address is: 2029  
5 Century Park East, Suite 2400, Los Angeles, California 90067. On January 10,  
6 2013, I served the foregoing document(s) described as:

7 DECLARATION OF INGRID MCGUIRE IN SUPPORT OF  
8 DEFENDANTS' MOTION TO DISMISS, OR IN THE ALTERNATIVE,  
9 STAY PROCEEDINGS AND COMPEL ARBITRATION

10 on the interested party(ies) below, using the following means:

11 **All parties identified for Notice of Electronic Filing  
12 generated by the Court's CM/ECF system under the  
13 referenced case caption and number**

14  BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or  
15 an agreement of the parties to accept service by e-mail or electronic transmission, I  
16 caused the document(s) to be sent to the respective e-mail address(es) of the  
17 party(ies) as stated above. I did not receive, within a reasonable time after the  
18 transmission, any electronic message or other indication that the transmission was  
19 unsuccessful.

20  (FEDERAL) I declare that I am employed in the office of a member of the bar of  
21 this court at whose direction the service was made.

22 Executed on January 10, 2013 at Los Angeles, California.

23 Robin Splendore  
24 [Print Name of Person Executing Proof]

25 Robin Splendore  
26 [Signature]